



THE CITY OF NEW YORK  
**LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NY 10007

**MICHAEL A. CARDOZO**  
*Corporation Counsel*

**SARAH B. EVANS**  
*Assistant Corporation Counsel*  
Tel.: (212) 788-1041  
Fax: (212) 788-9776

May 30, 2008

**VIA FAX AND ECF**

*Fax:* 212-805-0436  
Honorable Gerard E. Lynch  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 910  
New York, New York 10007-1581

Re: Emmanuel Nestant v. The City of New York, et al., 07 CV 6016 (GEL)

Your Honor:

Enclosed please find a STIPULATION AND ORDER OF SETTLEMENT AND DISCONTINUANCE which has been executed by the parties in the above-referenced matter. We respectfully request that Your Honor endorse the enclosed STIPULATION.

Thank you for your consideration in this matter.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sarah B. Evans".

Sarah B. Evans  
Assistant Corporation Counsel  
Special Federal Litigation Division

Enc.

cc: Edward Sivin, Esq. (By fax and ECF)  
Sivin & Miller, LLP  
Attorney for Plaintiff  
170 Broadway, Suite 600  
New York, New York 10038  
*Fax:* 212-406-9462

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
EMMANUEL NESTANT,

Plaintiff,

-against-

THE CITY OF NEW YORK, OMAR ALMOZAR,  
ADRIAN CASTILLO, EBONY CHANCE and JASON  
WILSON,

Defendants.  
-----X

**STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISCONTINUANCE**

07 CV 6016 (GEL) (HBP)

**WHEREAS**, plaintiff commenced this action by filing a complaint on or about June 26, 2007, alleging that defendants violated his constitutional rights; and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;


**WHEREAS**, plaintiff has authorized counsel to settle this matter as against defendants on the terms enumerated below;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. This above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff Emmanuel Nestant the sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000.00) in full

satisfaction of all claims, inclusive of claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all claims against the City of New York and all individually named defendants, and to release all defendants and any present or former employees or agents of the City of New York from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiff shall execute and deliver to City defendant's attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens or an Affidavit Concerning Liens, whichever applies (*CIRCLE ONE*). 

4. Nothing contained herein shall be deemed to be an admission by defendants or the City of New York that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject

matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
May 27, 2008

Edward Sivin, Esq.  
Sivin & Miller, LLP  
Attorney for Plaintiff  
170 Broadway, Suite 600  
New York, New York 10038  
(212) 349-0300

By: 

Edward Sivin, Esq.

MICHAEL A. CARDOZO  
Corporation Counsel of the City of New  
York  
Attorney for Defendants  
100 Church Street  
New York, New York 10007  
(212) 788-1041

By: 

Sarah B. Evans

Assistant Corporation Counsel

SO ORDERED:

\_\_\_\_\_  
U.S.D.J.